

WILL QUESTIONNAIRE
(for clients with assets **over** \$500,000)

Name of the testator:

Address:

☐ male ☐ female

☐ married[☐once/☐several] ☐ widow(er) ☐ divorced ☐ single

☐ previously made a Will - date(s):

Telephone number(s):

Military status: ☐ in service ☐ a spouse of person in service ☐ a dependent of person in service

☐ retired from service

☐ stationed outside of state of domicile - place:

Name of spouse:

Children: ☐ NONE ☐ 1 ☐ 2 ☐ 3 ☐ 4 Number: ____

☐ more children are anticipated

☐ no child, but children are anticipated

Adopted children are to be ☐ expressly included, ☐ expressly excluded or ☐ this Will is to be silent on the subject.

Enter the names of the children (and indicate if minor, deceased with issue, by prior marriage, adopted, and any special treatment):

Approximate assets of the testator: \$

Approximate assets of spouse: \$

Additional assets anticipated by death (including life insurance proceeds and assets which may be inherited): \$

Combined assets: \$

☐ testator has a pension plan or retirement account

Describe any gift giving plans (and use of unified credit):

In what month is this Will to be executed:

Day (or leave day blank for the testator to fill in at execution):

☐ testator owns interests in a family-owned business - name and type of business:

NOTE: Section 2057 of the Internal Revenue Code creates a deduction from the gross estates of certain owners of qualified family-owned business interests. The family-owned business deduction, when used with the unified credit, can shield up to \$1,300,000 from Federal estate taxes.

Testator's family-owned business interests are: ☐ less than half of the adjusted gross estate / ☐ over \$650,000 / ☐ over \$1,300,000

The family-owned business interests: ☐ will NOT qualify for the family-owned business deduction / ☐ could qualify, but testator DOES NOT WANT TO QUALIFY / ☐ ARE TO BE QUALIFIED for the deduction

The family-owned business interests are to be disposed of:

☐ as part of the residuary estate (or a credit shelter trust), rather than specifically bequeathed

☐ to the spouse outright (rarely)

☐ to the spouse in a QTIP trust

☐ to the spouse in a credit shelter trust and marital deduction trust

☐ to the spouse in a credit shelter trust and balance outright

☐ spouse is to receive only excess over \$1,300,000 deduction - ☐ outright / ☐ in a marital deduction trust

☐ spouse's share is to be a specific percentage: % - ☐ in a QTIP trust / ☐ outright except the portion less than the \$1,300,000 deduction shall be held in a QTIP (☐ or credit shelter trust)

☐ to a credit shelter trust f/b/o spouse and other beneficiaries with excess over \$1,300,000 to spouse ☐ outright or ☐ in a marital deduction trust - names of other beneficiaries:

☐ specific percentage(s) to one or more specific heir(s):

☐ to testator's issue

☐ other:

☐ real estate is to be disposed of under this Will -

☐ the spouse is to be the beneficiary of all real estate

☐ [the property is to be sold if spouse predeceases]

☐ spouse is to have just a life estate [☐ in just the house]

☐ just the house to the spouse (other real estate to pass in residuary estate)

☐ all real estate is to pass in residuary estate (or to fund a credit shelter trust)

☐ all real estate is to be sold

☐ to one or more other beneficiaries (identify beneficiaries and shares if unequal):

Identify the property:

[Warning: If the testator is the sole owner of a residence in Florida, review Florida's restrictive "homestead" law.]

How are the personal effects and other tangible personal property to be bequeathed -

- ☐ all to the spouse
- ☐ as per a schedule (items not specified to the spouse)
- ☐ as per a schedule (items not specified to pass in residuary estate)
- ☐ all to the children
- ☐ as provided with regard to the residuary estate
- ☐ all to one beneficiary (enter name):
- ☐ OTHER (describe disposition and shares):

Wills rarely contain any of the following -

- ☐ a pour over of assets to an existing trust (property to be included, name and date of the trust)
 - ☐ the exercise of a power of appointment given by a third party instrument (identify title and date of instrument, beneficiaries to be designated, outright vs trust)
 - ☐ a charitable trust (wholly charitable vs lead vs remainder trust, annuity vs unitrust, property to be included, identity of charity and lead or remainder beneficiary, percentage per annum)
 - ☐ the purchase of an annuity (beneficiaries, amounts)
- Enter the specifics:

☐ there are to be specific cash bequests (enter amounts and beneficiaries):

☐ create a credit shelter trust (estates over the unified credit which is \$650,000 for 1999 and increases to \$1,000,000 by 2006) -

☐ fund trust with the maximum available credit [vs ☐ amount that spouse disclaims or ☐ fixed amount - \$]

☐ use state death tax credit EVEN IF it increases death taxes payable (usually no, unless increased taxes are small compared to tax savings for estate of spouse)

☐ if funded with the maximum available credit, put a dollar cap on said amount - \$

☐ credit shelter trust is to be a pre-residuary bequest, with the marital deduction trust as the residuary estate (usually best) [vs ☐ credit shelter trust as the residuary or ☐ fractional share]

☐ use date of distribution values rather than the values determined for Federal estate tax purposes

☐ f/b/o spouse [☐ f/b/o spouse and children, sprinkling]

☐ spouse is to have a limited power of appointment

☐ spouse is to have \$5,000/5% right to invade [☐ exercisable only on December 31st of each year so that 5% of the credit shelter trust is not included in spouse's estate]

☐ f/b/o children [☐ cash bequest, ☐ trust for minors, ☐ in trust throughout lives of children]

☐ f/b/o other beneficiaries [☐ cash bequest, ☐ trust if minor, ☐ in trust throughout life]

Enter specifics:

The residuary estate is to be bequeathed as follows -

☐ to the spouse outright

☐ if spouse predeceases, to issue per stirpes

☐ a marital deduction trust f/b/o spouse [☐ QTIP, ☐ QTIP with limited power of appointment, ☐ general power of appointment, ☐ an "estate" trust]

☐ spouse is foreign person (so QDT is to be created)

☐ spouse is to have \$5,000/5% right to invade

☐ if annual income is less than a specific percentage of principal, spouse is to receive not less than that minimum percent - ☐ 6%/ ☐ other:

☐ executor to allocate the generation-skipping transfer (GST) exemption

[and ☐ expressly create a separate QTIP trust for the GST exemption in excess of the credit shelter trust, ☐ merely authorize splitting of trusts to allocate the exemption, ☐ authorize trustee to confer general power of appointment on children so that they may make gifts to grandchildren not subject to the GST tax]

☐ a minimum bequest to spouse (disinheriting spouse to the extent permitted by law) [balance to ☐ the children or ☐ other beneficiaries]

☐ to children and issue of the testator, per stirpes [☐ outright or ☐ in trust]

☐ to one beneficiary outright

☐ to one beneficiary in trust

☐ to more than one beneficiary, in ☐ equal or ☐ unequal shares, either outright or in trust

Enter any specifics:

☐ designate alternate beneficiaries (as opposed to having residuary estate pass as if the testator died intestate). The alternate beneficiary may be an individual, entity or group of people, and you can designate a series of successor alternate beneficiaries:

A beneficiary must have attained what age to be entitled to receive a bequest outright -

☐ 18 ☐ 19 ☐ 21

or for larger estates -

☐ 25 ☐ 30

☐ 25 but 1/2 of the legacy is to be released when 21

☐ 30 but 1/3 is to be released when 21, and 1/3 when 25

☐ 35 but 1/3 is to be released when 25, and 1/3 when 30

☐ Other:

If a child of the testator is a minor, are bequests to the child to be -

☐ paid, at the ELECTION of the executor, to the child, a guardian or a custodian under a Uniform Gifts To Minors Act, OR the executor may hold the bequest in trust (usually this option is best)

☐ held in trust [by ☐ a TRUSTEE or ☐ the executor] until child attains majority

Appoint as executor -

☐ the spouse

☐ the spouse and a co-executor

☐ the spouse and one or more successor executor

☐ one executor

☐ one executor and one or more successor executor

☐ two co-executors

If a co-executor fails to qualify -

☐ the other may act alone

☐ the other may appoint a new co-executor

☐ another co-executor is to be designated in this Will

Enter the name(s) and relationship to the testator:

IF THERE IS TO BE A TRUST -

Appoint -

☐ one trustee

☐ one trustee and one or more successor trustee

☐ two co-trustees

If a co-trustee fails to qualify -

☐ the other may act alone

☐ the other may appoint a new co-trustee

☐ another co-trustee is to be designated in this Will

Enter the name(s) and relationship to the testator:

☐ a trustee is also a beneficiary (if so, you should have a co-trustee)

☐ omit "decisions of trustee are conclusive" clause

☐ a majority of beneficiaries may remove a trustee and appoint a successor (who is not "related or subordinate" within the meaning of 26 U.S.C. 672(c))

☐ income beneficiary is to be entitled to demand each year \$5,000 or 5% of the principal of the trust

☐ create a single trust, rather than separate trusts, for minor children (permitting unequal payments)

☐ if a minor grandchild becomes a beneficiary, bequest must be held in trust (rarely, discretion to release to grandchild or guardian is preferable)

☐ trustee may liquidate a trust for a minor to the minor's guardian [☐ only if trust principal is less than \$]

If there are minor children, does the testator wish to appoint -

☐ one guardian

☐ a guardian and one or more successor guardians
☐ two co-guardians
☐ no guardian is to be appointed in this Will
☐ and appoint a conservator of the children's property (in jurisdictions where appropriate)
Enter the name(s) and relationship:

[NOTE: If children by a prior marriage or stepchildren are to be treated differently, manually edit the OUTPUT FILE.]

☐ prepare a short form of Will

Re the survivorship clause -

☐ the spouse is to be deemed to survive a common accident (may reduce estate taxes to be paid by a couple by shifting assets to the spouse pursuant to the marital deduction, appropriate where testator's assets are large and spouse's assets are modest)
☐ survivorship is to be based on surviving for a prescribed number of days - 30 days/☐ other:

Only rarely do you -

☐ apportion estate taxes
☐ permit 2207A election (re taxes if testator is beneficiary of QTIP trust)
☐ provide for per capita, rather than per stirpes, distributions
☐ require a bond from executor
☐ request executor to waive his commission
☐ use a bank's or trust company's commission schedule
☐ waive an inventory and account of proceedings
☐ direct payment or prepayment of debts
☐ state preferences regarding investments - income vs growth / diversification
☐ is/☐ is not a priority
☐ expressly treat disclaimers of bequests (frequently appropriate for larger estates)
☐ expressly disinherit one or more persons (other than the spouse) - name(s):
☐ include an "in terrorem" clause (there may be questions of enforceability in some jurisdiction)
☐ GST allocation
☐ include a "virtual representation" clause to minimize need for guardian ad litem in any proceeding [☐ approval by adult beneficiaries is to bind minor beneficiaries]
☐ include a rule against perpetuities savings clause
☐ authorize Subchapter S trust qualification under IRC 1361(d)(3)
☐ powers re oil, gas and mineral rights

ANCILLARY DOCUMENTS -